

## Assembly Bill No. 2513

### CHAPTER 863

An act to add Section 2260 to the Business and Professions Code, relating to medicine.

[Approved by Governor September 24, 1996. Filed  
with Secretary of State September 25, 1996.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2513, Speier. Physicians and surgeons: assisted reproduction: consent.

Existing law provides that it is unprofessional conduct for a physician and surgeon to fail to comply with prescribed informed consent requirements relating to sterilization procedures, treatment of breast cancer, silicon implants, and collagen injections. Existing law provides that any person who violates the law relating to enforcement of the Medical Practices Act is guilty of a misdemeanor.

This bill would require a physician and surgeon who removes sperm or ova from a patient to obtain a prescribed written consent from the patient before the sperm or ova are used for a purpose other than reimplantation in the same patient or implantation in the spouse of the patient. The bill would provide that violation of the requirement constitutes unprofessional conduct. The bill would provide that the misdemeanor provision does not apply to a person who violates the requirement. This bill would require a physician and surgeon who fails to obtain the required consent a 2nd time to be assessed a civil penalty of not less than \$1,000 and not more than \$5,000, plus court costs, to be paid to the individual whose required consent was not obtained.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares that the risk of misappropriation of human eggs and embryos for implantation in other women, without the informed consent of the donors, is a growing concern to the people of the state.

SEC. 2. Section 2260 is added to the Business and Professions Code, to read:

2260. (a) A physician and surgeon who removes sperm or ova from a patient shall, before the sperm or ova are used for a purpose other than reimplantation in the same patient or implantation in the spouse of the patient, obtain the written consent of the patient as provided in subdivision (b).

(b) The consent required by subdivision (a) shall conform to all of the following requirements:

(1) The consent shall be in writing and shall contain the following statement: I (name of donor) do hereby donate (type and number, if applicable, of sperm or ova); to (name of clinic or other donee) for (specify purpose).

(2) The consent shall contain a statement by the donor that specifies the disposition of any unused donated material.

(3) The consent shall be signed by the patient and by the physician and surgeon who removes the sperm or ova.

(4) The physician and surgeon shall retain the original consent in the medical record of the patient and give a copy of the consent to the patient.

(5) The consent shall contain a notification to the patient that the written consent is an important document that should be retained with other vital records.

(6) If the procedure to remove the sperm or ova is performed in a hospital, the physician and surgeon shall provide a copy of the consent to the hospital.

(c) Nothing in this section shall affect the obligation of a physician and surgeon under current law to obtain the informed consent of a patient before performing a medical procedure on the patient that may significantly affect the patient's reproductive health or ability to conceive, or both.

(d) A violation of this section constitutes unprofessional conduct. Section 2314 shall not apply to this section.

(e) A physician and surgeon who fails, for the second time, to obtain any consent required in subdivision (a) or (b) before transferring sperm or ova from a provider of sperm or ova to a recipient, shall be assessed a civil penalty in an amount not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the individual whose required consent was not obtained. A separate penalty shall be assessed for each individual from whom the consent was not obtained. The penalties in this section shall be available in addition to any other remedies that may be available under other provisions of law.

